

11-26-01

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#20



KIT 257 JEL/JRC

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of : T. Yashima, et al  
Serial No. : 08/787,850  
Filed : January 23, 1997  
For : FLOOR WORKING MACHINE WITH A WORKING  
IMPLEMENT MOUNTED ON A SELF-PROPELLED  
VEHICLE FOR ACTION ON FLOOR  
Group Art Unit : 1744  
Examiner : R. Chin

November 14, 2001

BOX DAC

Assistant Commissioner for Patents  
Washington, D.C. 20231

Express Mail" mailing label Number EL829643357US, Date of Deposit  
November 14, 2001, I hereby certify that this paper or fee is being deposited with  
the United States Postal Service "Express Mail Post Office to Addressee" service  
under CFR 1.10 on the date indicated above, and is addressed to the Assistant  
Commissioner for Patents, Box DAC, Washington, D.C. 20231

FULBRIGHT & JAWORSKI L.L.P.

*Eileen Sheffield*  
Eileen Sheffield

**SUBMISSION OF PETITION TO REVIVE FOR UNINTENTIONAL ABANDONMENT**

S I R:

Submitted herewith is a petition to revive this application for unintentional abandonment.

A brief explanation of the events leading to this petition is in order.

The present application was allowed and set to issue when it was discovered that there was  
a translational error. A rule 312 amendment was filed to correct this error, but was denied entry.

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**OFFICE OF PETITIONS**

A decision was granted on a subsequent petition under 1.183 to withdraw the application from issue in favor of a continuation application which was filed on April 19, 1999 (initially accorded serial number 09/295,013 and a filing date of April 20, 1999).

Eventually, Applicants were notified that the USPTO did not believe that the '013 application was complete and Applicants' petition of March 30, 2000 to accord the application a filing date as of the date of filing by Express mail was dismissed. It took over one year to obtain this decision (copy enclosed), so Applicants were unable to respond in a timely fashion while the instant application was still pending. The sole reason the instant application was withdrawn from issue was to file a continuation application to address the translational error.

A CPA application as not filed in the instant application since it was unclear whether the Rule 312 amendment would be entered which would have obviated a need for a continuation application, and, in the meantime, the continuation was filed as a precaution since the results with respect to the Rule 312 amendment were not known.

Since it was not clear whether the '013 application was granted a filing date and a decision to enter the Rule 312 amendment was not received, yet another precautionary continuation application was filed on July 1, 1999, while the instant application was still pending. Unfortunately, this second continuation application was apparently lost at the USPTO because although a return postcard was received, no further correspondence has been received. A petition to accord that application a serial number and filing date was mailed on October 23, 2001.

A response to the dismissal of the petition to accord a filing date in the '013 application is also being filed today, and either today or the April 1999 date will be the filing date of that

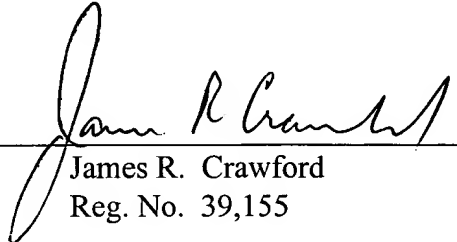
application. That response includes a request for reconsideration of the dismissal and further requests that the April 1999 filing date be accorded to the '013 continuation application, or, alternatively, that a filing date be accorded to that application as of receipt of the necessary filing requirements. Since the results are uncertain, Applicants file this petition as a precautionary measure so that co-pendency is established until the '013 application has been accorded pending status and filing requirements are completed. In view of the foregoing, it is respectfully submitted that this application was abandoned unintentionally before co-pendency of the continuation application was established.

It is respectfully requested that this petition, the request for reconsideration in the '013 application and the petition to accord a filing date and serial number to the application filed July 1, 1999 be considered and decided together.

If any fees are due to enter this communication, the Examiner is authorized to charge Deposit Account No. 50-0624.

Respectfully submitted,

**FULBRIGHT & JAWORSKI L.L.P.**

  
James R. Crawford  
Reg. No. 39,155

666 Fifth Avenue  
New York, New York 10103  
(212) 318-3148



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO/SB/17 (10-01)  
Approved for use through 10/31/2002. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

<b>FEE TRANSMITTAL</b> for FY 2002 <small>Patent fees are subject to annual revision.</small>		<b>Complete if Known</b>		
		Application Number	08/787,850	
		Filing Date	January 23, 1997	
		First Named Inventor	Iwao Nozaki	
		Examiner Name	R. Chin	
TOTAL AMOUNT OF PAYMENT (\$)		1,280.00	Attorney Docket No.	NY-KIT 257-US

<b>METHOD OF PAYMENT</b>		<b>FEE CALCULATION (continued)</b>																																																																																																																																																																																															
1. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to: Deposit Account Number: 50-0624 Deposit Account Name: <input checked="" type="checkbox"/> Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17 <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		<b>3. ADDITIONAL FEES</b>																																																																																																																																																																																															
2. <input checked="" type="checkbox"/> Payment Enclosed <input checked="" type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> Other		<table border="1"><thead><tr><th colspan="2">Large Entity</th><th colspan="2">Small Entity</th><th rowspan="2">Fee Description</th><th rowspan="2">Fee Paid</th></tr><tr><th>Fee Code</th><th>Fee (\$)</th><th>Fee Code</th><th>Fee (\$)</th></tr></thead><tbody><tr><td>105</td><td>130</td><td>205</td><td>65</td><td>Surcharge - late filing fee or oath</td><td></td></tr><tr><td>127</td><td>50</td><td>227</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet.</td><td></td></tr><tr><td>139</td><td>130</td><td>139</td><td>130</td><td>Non-English specification</td><td></td></tr><tr><td>147</td><td>2,520</td><td>147</td><td>2,520</td><td>For filing a request for ex parte reexamination</td><td></td></tr><tr><td>112</td><td>920*</td><td>112</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td><td></td></tr><tr><td>113</td><td>1,840*</td><td>113</td><td>1,840*</td><td>Requesting publication of SIR after Examiner action</td><td></td></tr><tr><td>115</td><td>110</td><td>215</td><td>55</td><td>Extension for reply within first month</td><td></td></tr><tr><td>116</td><td>400</td><td>216</td><td>200</td><td>Extension for reply within second month</td><td></td></tr><tr><td>117</td><td>920</td><td>217</td><td>460</td><td>Extension for reply within third month</td><td></td></tr><tr><td>118</td><td>1,440</td><td>218</td><td>720</td><td>Extension for reply within fourth month</td><td></td></tr><tr><td>128</td><td>1,960</td><td>228</td><td>980</td><td>Extension for reply within fifth month</td><td></td></tr><tr><td>119</td><td>320</td><td>219</td><td>160</td><td>Notice of Appeal</td><td></td></tr><tr><td>120</td><td>320</td><td>220</td><td>160</td><td>Filing a brief in support of an appeal</td><td></td></tr><tr><td>121</td><td>280</td><td>221</td><td>140</td><td>Request for oral hearing</td><td></td></tr><tr><td>138</td><td>1,510</td><td>138</td><td>1,510</td><td>Petition to institute a public use proceeding</td><td></td></tr><tr><td>140</td><td>110</td><td>240</td><td>55</td><td>Petition to revive - unavoidable</td><td></td></tr><tr><td>141</td><td>1,280</td><td>241</td><td>640</td><td>Petition to revive - unintentional</td><td>1,280.00</td></tr><tr><td>142</td><td>1,280</td><td>242</td><td>640</td><td>Utility issue fee (or reissue)</td><td></td></tr><tr><td>143</td><td>460</td><td>243</td><td>230</td><td>Design issue fee</td><td></td></tr><tr><td>144</td><td>620</td><td>244</td><td>310</td><td>Plant issue fee</td><td></td></tr><tr><td>122</td><td>130</td><td>122</td><td>130</td><td>Petitions to the Commissioner</td><td></td></tr><tr><td>123</td><td>50</td><td>123</td><td>50</td><td>Processing fee under 37 CFR 1.17(q)</td><td></td></tr><tr><td>126</td><td>180</td><td>126</td><td>180</td><td>Submission of Information Disclosure Stmt</td><td></td></tr><tr><td>581</td><td>40</td><td>581</td><td>40</td><td>Recording each patent assignment per property (times number of properties)</td><td></td></tr><tr><td>146</td><td>740</td><td>246</td><td>370</td><td>Filing a submission after final rejection (37 CFR 1.129(a))</td><td></td></tr><tr><td>149</td><td>740</td><td>249</td><td>370</td><td>For each additional invention to be examined (37CFR 1.129(b))</td><td></td></tr><tr><td>179</td><td>740</td><td>279</td><td>370</td><td>Request for Continued Examination (RCE)</td><td></td></tr><tr><td>169</td><td>900</td><td>169</td><td>900</td><td>Request for expedited examination of a design application</td><td></td></tr><tr><td colspan="4">Other fee (specify)</td><td></td><td></td></tr><tr><td colspan="4">*Reduced by Basic Filing Fee Paid</td><td><b>SUBTOTAL (3)</b> (\$)</td><td>1,280.00</td></tr></tbody></table>		Large Entity		Small Entity		Fee Description	Fee Paid	Fee Code	Fee (\$)	Fee Code	Fee (\$)	105	130	205	65	Surcharge - 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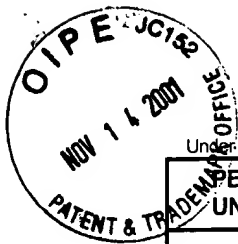
<b>SUBMITTED BY</b>		<b>Complete (if applicable)</b>	
Name (print/type)	James R. Crawford	Registration No. (Attorney/Agent)	39,155
Signature		Telephone	(212) 318-3148
		Date	November 14, 2001

<b>Fee Transmittal</b>	
I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EL 829643357 US in an envelope addressed to: Box DAC, Commissioner for Patents, Washington, DC 20231, on the date shown below.	
Dated: November 14, 2001	Signature:  (Eileen Sheffield)

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NOV 27 2001

OFFICE OF PETITIONS

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)  
KIT-257

First named inventor: Yashima Takashi, et al.

Application Number: 08/787,850

Group Art Unit: 1744

Filed: 1/23/97

Examiner: R. Chin

Title: FLOOR WORKING MACHINE WITH A WORKING IMPLEMENT MOUNED ON A SELF-  
POROPELLED VEHICLE FOR ACTON ON FLOOR

Attention: Office of Petitions

NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (703) 305-9282.The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action  
by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date  
of the period set for reply in the Office notice or action plus any extensions of time actually obtained.**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed  
before June 8, 1995, and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**☐ Small entity – fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status.  
See 37 CFR 1.27.☒ Other than small entity – fee 1280 (37 CFR 1.17(m))**2. Reply and/or fee**A. The reply and/or fee to the above-noted Office action in the form  
of \_\_\_\_\_ (identify the type of reply):☐ has been filed previously on \_\_\_\_\_ .☐ is enclosed herewith.

B. The issue fee of \$ \_\_\_\_\_

☐ has been paid previously on \_\_\_\_\_ .

is enclosed herewith.

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 3. Terminal disclaimer with disclaimer fee

☒

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐

A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity  
or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time  
is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c)(III)(C) and (D))].

November 14, 2001

Date



Signature

Telephone  
Number:

(212) 318-3148

James R. Crawford

Typed or printed name

FULBRIGHT &amp; JAWORSKI L.L.P.

666 Fifth Avenue

New York, New York 10103

Address

Enclosures:

☒

Fee Payment

☐

Reply

☐

Terminal Disclaimer Form

☒

Additional sheets containing statements establishing unintentional delay

☐

Other: \_\_\_\_\_

25092108.1

## Petition to Revive Application

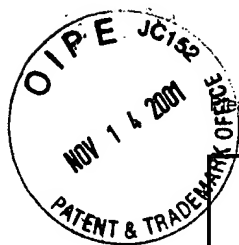
I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No.

EC 829643357 in an envelope addressed to: Box DAC, Commissioner for Patents, Washington, DC 20231, on the  
date shown below.

Dated: November 14, 2001

Signature: \_\_\_\_\_





Please type a plus sign inside this box → ☐

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO/SB/21 (08-00)  
Approved for use through 10/31/2002. OMB 0651-0031  
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	<b>Application Number</b>	08/787,850	
	<b>Filing Date</b>	January 23, 1997	
	<b>First Named Inventor</b>	Iwao Nozaki	
	<b>Group Art Unit</b>	1744	
	<b>Examiner Name</b>	R. Chin	
<b>Total Number of Pages in This Submission</b>		<b>Attorney Docket Number</b>	NY-KIT 257-US

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form  <input checked="" type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment/Reply  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/ Incomplete Application  <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application)  <input type="checkbox"/> Drawing(s)  <input type="checkbox"/> Licensing-related Papers  <input checked="" type="checkbox"/> Petition  <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below)  <i>Submission of Petition to Revoke</i>
<b>Remarks</b>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
<b>Firm or Individual Name</b>	FULBRIGHT & JAWORSKI L.L.P. James R. Crawford
<b>Signature</b>	<i>James R. Crawford</i>
<b>Date</b>	November 14, 2001

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OFFICE OF PETITIONS

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Transmittal	
I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EL 829643357 US an envelope addressed to: Box DAC, Commissioner for Patents, Washington, DC 20231, on the date shown below.	
Dated: November 14, 2001	Signature: <i>Eileen Sheffield</i> (Eileen Sheffield)

FULBRIGHT & JAWORSKI, LLP  
NEW YORK DOCKETINGDocketed ☒ Not Required ☐Previously ☐ Updated ☐Docket No: KIT 257.1 CONT / SRE

Paper No. 7

Action: Resp to Decision drawings, Spec. PagesReminder: 11/03/2001 + suppl. oath/declDate: Due/Done 12/03/2001Initials: AK

COPY MAILED

OCT 05 2001

OFFICE OF PETITIONS

In re Application of

Yashima et al.

Application No. 09/295,013

Deposited: April 20, 1999

Attorney Docket No. KIT/257.1

DECISION DISMISSING PETITION

This is a decision on the petition filed by facsimile on March 30, 2000, requesting that the above-identified application be accorded a filing date of April 19, 1999, with 39 pages of specification and 20 sheets of drawings as part of the original disclosure. The Office sincerely apologizes for the delay in responding to the instant petition.

On April 20, 1999, the application was deposited. On May 10, 1999, Initial Patent Examination Division mailed a Notice of Omitted Items which indicated that drawings were omitted. The box on the Notice of Omitted Items for pages of specification was also checked but no specific page numbers were identified as being omitted. A Notice To File Missing Parts of Application was also mailed on May 10, 1999, stating that the oath or declaration was missing and requiring an oath or declaration and the \$130.00 surcharge. Both Notices indicated that the application had been accorded a filing date.

On July 9, 1999, a "Response to Notice to File Missing Parts of Application" was filed. The response included an executed declaration, the \$130.00 surcharge, and a copy of the Notice to File Missing Parts.

The present petition was filed on March 30, 2000. The petition is purportedly a copy of a petition deposited in first class mail on July 7, 1999. The petition was accompanied by a postcard receipt listing a "Petition Establishing Deposit of Application Papers And Fee Under 37 CFR Section 1.17(i)", "Copy of Notice of Omitted Item(s)", "Copy of Utility Patent Application Transmittal", "Copy of Return Postcard", "Copy of Express Mail Label EJ474429773US", and "Check in the Amount of \$130.00." However, the postcard does not include a stamp by the USPTO to acknowledge receipt of the items listed thereon. Office finance records do show that a \$130.00 petition fee was received on July 15, 1999.

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Petitioners argue that 39 pages of specification and 20 sheets of drawings were filed on April 19, 1999. Petitioners refer to the utility application transmittal sheet, the accompanying postcard, and the express mail filing receipt.

The evidence has been considered, but is not persuasive that drawings were filed on April 19, 1999 or April 20, 1999. The USPTO file is the official record of the papers originally filed in this application. A review of the official file reveals that no drawings are present in the file. An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. It is noted that a transmittal letter is only evidence of what was intended to be filed and not evidence of what was actually filed. The best evidence of what was filed with the application is a postcard receipt. In this case, the postcard receipt lists a "Supplemental Amendment", "Affidavit (5 revised pages)", "Transmittal Letter", and "Utility Patent Application Transmittal." This postcard, however, does not include a stamp by the USPTO to acknowledge receipt of the listed items. Even if the postcard did contain a USPTO stamp, it is noted that the postcard does not itemize sheets of drawings or pages of specification and thus could not serve as evidence that either drawings or a certain number of pages of specification were filed. See MPEP 503.

A review of the application file reveals that a Supplemental Amendment, an Affidavit (2 pages), a Transmittal Letter (2 pages), a Utility Patent Application Transmittal (1 page), and 5 pages of specification (including claims) were deposited on April 20, 1999. The 5 pages of specification are **not** numbered. The 5 pages of specification do not refer to drawings. The claims include claims 1 and 2, an incomplete claim 3, another incomplete claim which is unnumbered, and claims 12-14. As noted above, no drawings are present in the application. It is noted that the "Transmittal Letter" indicates that the letter is accompanied by "an application for a continuing application along with four (sic) (5) revised pages of the previously filed specification." It appears that the 5 revised pages of specification may be the only pages of specification which are present.

The question of whether drawings are necessary under the first sentence of 35 USC 113 has been presented to the primary examiner responsible for examining the subject matter claimed in the application. The examiner has stated that drawings are necessary for an understanding of the claimed subject matter. A copy of the examiner's opinion is attached. No error is found in the examiner's opinion. Since drawings have been determined to be necessary for an understanding of at least some of the claimed subject matter, the application as filed was incomplete.

It is noted that Initial Patent Examination Division should have mailed a Notice of Incomplete Application, as per MPEP 601.01(g), rather than a Notice of Omitted Items, since the application was filed without drawings and did not contain at least one claim directed to subject matter for which a drawing is usually not considered essential for a filing date. The Notice of Omitted Items and the Notice to File Missing Parts of Application mailed on May 10, 1999, were in error to the

extent that they indicated that the application was entitled to a filing date.

While the petition also argues that the 39 pages of specification and 20 sheets of drawings were filed on April 19, 1999 as opposed to April 20, 1999, the copy of the Express Mail submitted with the petition does not show a "date-in" which is legible. Since the application is incomplete, however, this issue is no longer relevant.

The petition is dismissed.

The application still lacks a drawing of applicants' invention and pages (unknown page numbers) of the specification are omitted. Thus, the application remains incomplete. The filing date will be the date of receipt of the required drawings. The drawing and any specification pages submitted must be accompanied by a supplemental oath or declaration referring to the omitted drawings and omitted pages.

Applicant is given **TWO MONTHS** from the date of this decision to file the drawings, specification pages, and the supplemental oath or declaration required above. Failure to complete the application within this time period will result in the return of the application to Initial Patent Examination Division for processing as an incomplete application (no filing date granted). The response should be directed as follows:

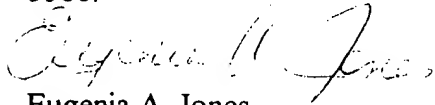
By mail:       Assistant Commissioner for Patents  
                  Box DAC  
                  Washington, D.C. 20231

By hand:       Crystal Plaza Four, Suite 3C23  
                  2201 South Clark Place  
                  Arlington, VA

If applicant desires to claim the benefit of prior application No. 08/787,850, appropriate steps must be taken to revive the prior application to establish copendency between the prior application and the present application (once it is completed).

The application is being retained in this office to await receipt of any reply.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5586.



Eugenia A. Jones  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of the Deputy Commissioner  
for Patent Examination Policy

Enclosure: Copy of memo from Randall Chin

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**2001 OCT 10 A 10:35**

**FULBRIGHT & JAWORSKI, LLP  
NEW YORK OFFICE**



DATE: November 28, 2000


TO: Office of Petitions

FROM: Randall Chin, Primary Examiner- AU 1744

SUBJECT: Application no. 09/295,013

It has been noticed that there are missing pages for the claims and that the opinion below is based only on claims that are present in this application.

It is the opinion of the Primary Examiner that all claims would require drawings for an understanding of the claimed subject matter sought to be patented. Specifically, drawings are necessary for understanding function and structural arrangement of the floor working machine which comprises a self-propelled vehicle body including a working implement for treating the floor, a U-turn control means, a spin turn control means, and a running control means (claim 1), a semi-automatic control unit that is operable in response to a U-turn command (claim 2), the running control means including a full automatic control unit that is operable to control the U-turn control means and the spin turn control means automatically based on a set running program (claim 3), running wheels including a dirigible drive wheels and a pair of right and left driven wheels (claims 12 and 13), and wherein the right and left wheels are non-dirigible wheels (claim 14).

  
RANDALL E. CHIN  
PRIMARY EXAMINER